

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOE ELTON MOSLEY,

Plaintiffs,

v.

JIMMY WHITE, *et al.*,

Defendants.

Case No. 3:20-cv-00146-MMD-CLB

ORDER

Plaintiff has filed a *pro se* civil rights complaint—on the basis of diversity jurisdiction—against Walmart and its security manager for several wrongful conduct against Plaintiff and his family that allegedly occurred at a Walmart in Sparks, Nevada. (ECF No. 1-1 at 2-5.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Carla L. Baldwin (ECF No. 3), recommending that the Court grant Plaintiff’s application to proceed *in forma pauperis* (the “IFP Application”) (ECF No. 1) and dismiss his *pro se* civil rights Complaint (ECF No. 1-1) without prejudice. Plaintiff had until May 18, 2020 to file an objection. To date, no objection has been filed. For that reason, and because the Court agrees with Judge Baldwin, the Court will adopt the R&R.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation”).

1 The Court finds it unnecessary to engage in *de novo* review to determine whether
2 to adopt Magistrate Judge Baldwin's R&R and is satisfied that there is no clear error.
3 Judge Baldwin recommends that the Court grant the IFP Application because Plaintiff
4 cannot pay the filing fee. (ECF No. 3 at 2.) Judge Baldwin also recommends that the Court
5 dismiss the Complaint for lack of subject matter jurisdiction because Plaintiff alleges he is
6 a Nevada citizen and that Walmart is a Nevada corporation with its principal place of
7 business in Nevada. (*Id.* at 4.) See 28 U.S.C. § 1332(c)(1); *Owen Equip. & Erection Co.*
8 *v. Kroger*, 437 U.S. 365, 373-74 (1978). The Court agrees.

9 It is therefore ordered that the Report and Recommendation of Magistrate Judge
10 Carla L. Baldwin (ECF No. 3) is accepted and adopted in full.

11 It is further ordered that Plaintiff's Motion/Application for Leave to Proceed in forma
12 pauperis (ECF No. 1) is granted.

13 It is further ordered that the Clerk of the Court file the Complaint (ECF No. 1-1).

14 It is further ordered that the Complaint (ECF No. 1-1) is dismissed without prejudice.

15 The Clerk is directed to enter judgment in accordance with this order and close this
16 case.

17 DATED THIS 22nd day of May 2020.

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21 MIRANDA M. DU
22 CHIEF UNITED STATES DISTRICT JUDGE
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